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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/587,126

07/21/2006

Peter J. Dronzek Jr.

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EXAMINER

GOFF II, JOHN L

ART UNIT

PAPER NUMBER

1746

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/587,126	<b>Applicant(s)</b> DRONZEK JR., PETER J.	
	<b>Examiner</b> John L. Goff	<b>Art Unit</b> 1746	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,6,8-11 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) 14-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,8-11 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Continued Examination Under 37 CFR 1.114**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/1/10 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### **Claim Rejections - 35 USC § 103**

3. Claims 1, 2, 5, 6, 8, 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mallik (U.S. Patent Application Publication 2003/0102080) in view of Heise et al. (U.S. Patent 2,805,172).

Mallik discloses a method for applying a polymeric label of for example polyethylene adipate, polypropylene succinate, etc., considered a polyethylene or polypropylene polymeric label to a container of for example glass. Mallik teaches the method consists of applying a layer of animal glue and water to a polymeric label, drying the layer to form a solid, water activatable animal glue layer, applying a sufficient amount of water to activate the animal glue, and fastening the label to a container by drying the water activated layer of animal glue (Figures 1 and 2 and Paragraphs 0013, 0018, and 0020-0023).

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Regarding the limitations of “a hydrophilic solid material”, “a tacky fastenable adhesive”, and “curing the polymeric label”, the material, i.e. animal glue, and method, i.e. applying the animal glue with water, drying, activating with water, applying, and drying, taught by Mallik is consistent and in agreement with that claimed and disclosed in applicants specification as a hydrophilic solid material that forms a tacky fastenable adhesive when activated with water and cures by drying to fasten the label to the container such that the method taught by Mallik is considered to necessarily result in the same.

Regarding the limitation of “water containing a cross-linking agent or a water based adhesive containing a cross-linking agent”, Mallik is silent to using any particular animal glue or water activator. However, it was known in the art that the animal glue include an alkaline salt, e.g. 90 dry parts animal glue and 10 dry parts alkaline salt, considered a cross-linking agent in a aqueous dispersion and the water activator include glyoxal, a cross-linking agent, and an acid or acid salt such that the animal glue will form a water resistant bond between a label and a substrate such as a bottle as shown by Heise (Column 1, lines 15-33 and Column 3, lines 8-20 and Example II). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the animal glue and water activator taught by Mallik the specific animal glue and water activator shown by Heise to form a water resistant bond between the label and the container. Regarding claim 8, water, cross-linking agent, and an acid or acid salt is considered a water based activator containing an effective amount of a cross-linking agent.

Regarding claim 9, Mallik and Heise are silent as to the specific amount of animal glue applied. Absent any unexpected results, it would have been obvious to one of ordinary skill in the art at the time the invention was made to experimentally determine the amount of animal glue

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required in Mallik as modified by Heise as a function of achieving an adequate bond between the label and container wherein because the material and method taught by Mallik as modified by Heise is consistent and in agreement with that disclosed by applicant and both result in an adequate bond one of ordinary skill would readily expect to use the same in Mallik as modified by Heise as claimed. It is noted that applicants specification discloses 0.25 to 8 lbs./3000 square feet is employed (Page 24, lines 15-21), and the claimed range is 120 to 4300 lbs./3000 square feet such that it appears the claimed range may be in error. Further, the specification does not show any unexpected result for either of the ranges of amounts other than these amounts result in an adequate bond.

4. Claims 10, 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mallik and Heise as applied to claims 1-3, 5, 6, 8, 9, and 11 above, and further in view of Dronzek (U.S. Patent Application Publication 2001/0035265).

In the event the water soluble salt taught by Heise is not necessarily considered a cross-linking agent the following rejection would apply also to claim 11. Mallik and Heise teach all of the limitations in claims 10, 11, and 13 as applied above except for a specific teaching of additional additives included with the animal glue. It was known in the art of using water activated adhesive in labeling that the adhesive include a slip aid to prevent excessive friction between the adhesive and label and humectants such as urea or glycerin (also cross-linking agents) to impart layflat properties to the label as shown by Dronzek (Paragraphs 0045 and 0048). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the animal glue taught by Mallik as modified by Heise known additives

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such as a slip aid or humectants as shown by Dronzek to prevent excessive friction between the glue and the label and impart layflat properties to the label.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mallik and Heise as applied to claims 1, 2, 5, 6, 8, 9, and 11 above, and further in view of Leiner et al. (U.S. Patent 2,985,605).

In the event the water soluble salt taught by Heise is not necessarily considered a cross-linking agent the following rejection would apply. Heise is not limited to any particular water soluble salt and suggests alkali salts such as sodium (Column 5, lines 44-49). It was known in the art of using an animal glue with an alkali salt to use as the salt an alkali, e.g. sodium, salt of trimethylphenol, a cross-linker for the animal glue, to improve the bond strength of the glue as shown by Leiner (Column 2, lines 16-24 and 70-72 and Column 3, lines 1-3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the alkali salt in Mallik as modified by Heise the specific salt taught by Leiner to improve the bond strength of the glue.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mallik, Heise, and Leiner as applied to claim 11 above, and further in view of Dronzek.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the water based adhesive taught by Mallik as modified by Heise and Leiner a slip aid as shown by Dronzek to prevent excessive friction between the glue and the label.

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7. Claims 1, 2, 5, 6, 8, 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Squier et al. (U.S. Patent Application Publication 2002/0146520) in view of Mallik and Heise.

Squier discloses a process for applying a polyethylene or polypropylene polymeric label (Figure 1) to a glass or plastic container by applying a water based adhesive thereto, e.g. protein and water, and fastening the label to the container (Paragraphs 0032, 0045, 0047, 0064, 0066, 0089). Squier does not require any specific process of using the water based adhesive or any particular water based adhesive. It is common in the art of labeling using a water based adhesive as in Squier that the process consists of applying the label directly to the container with the water-based adhesive in a wet state or pre-coating the label with the water based adhesive, drying the coated adhesive to form a label for later application, applying a sufficient amount of activator such as water to reactivate the adhesive, and then fastening the label to the container as evidenced by Mallik (Paragraph 0021). Further, it was known in the labeling art when using a reactivated adhesive that the animal glue include an alkaline salt, e.g. 90 dry parts animal glue and 10 dry parts alkaline salt, considered a cross-linking agent in an aqueous dispersion and the water activator include glyoxal, a cross-linking agent, and an acid or acid salt such that the animal glue will form a water resistant bond between a label and a substrate such as a bottle as shown by Heise. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the water based adhesive taught by Squier in a reactivated adhesive process as such use is one of two common processes for using the water based adhesive as evidenced by Mallik it being further obvious that the reactivatable water based adhesive based on

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protein and water is the specific animal glue and water activator shown by Heise to form a water resistant bond between the label and the container.

Regarding the limitations of “a hydrophilic solid material”, “a tacky fastenable adhesive”, and “curing the polymeric label”, the material, i.e. animal glue, and method, i.e. applying the animal glue with water, drying, activating with water, applying, and drying, taught by Squier as modified by Mallik and Heise is consistent and in agreement with that claimed and disclosed in applicants specification as a hydrophilic solid material that forms a tacky fastenable adhesive when activated with water and cures by drying to fasten the label to the container such that the method taught by Squier as modified above is considered to necessarily result in the same.

Regarding claim 8, water, cross-linking agent, and an acid or acid salt is considered a water based activator containing an effective amount of a cross-linking agent.

Regarding claim 9, Squier, Mallik, and Heise are silent as to the specific amount of animal glue applied. Absent any unexpected results, it would have been obvious to one of ordinary skill in the art at the time the invention was made to experimentally determine the amount of animal glue required in Squier as modified by Mallik and Heise as a function of achieving an adequate bond between the label and container wherein because the material and method taught by Squier as modified by Mallik and Heise is consistent and in agreement with that disclosed by applicant and both result in an adequate bond one of ordinary skill would readily expect to use the same in Squier as modified by Mallik and Heise as claimed. It is noted that applicants specification discloses 0.25 to 8 lbs./3000 square feet is employed (Page 24, lines 15-21), and the claimed range is 120 to 4300 lbs./3000 square feet such that it appears the



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claimed range may be in error. Further, the specification does not show any unexpected result for either of the ranges of amounts other than these amounts result in an adequate bond.

8. Claims 10, 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Squier, Mallik, and Heise as applied to claims 1, 2, 5, 6, 8, 9, and 11 above, and further in view of Dronzek.

In the event the water soluble salt taught by Heise is not necessarily considered a cross-linking agent the following rejection would apply also to claim 11. Squier, Mallik, and Heise teach all of the limitations in claims 10, 11, and 13 as applied above except for a specific teaching of additional additives included with the animal glue. It was known in the art of using water activated adhesive in labeling that the adhesive include a slip aid to prevent excessive friction between the adhesive and label and humectants such as urea or glycerin (also cross-linking agents) to impart layflat properties to the label as shown by Dronzek. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the animal glue taught by Squier as modified Mallik and Heise known additives such as a slip aid or humectants as shown by Dronzek to prevent excessive friction between the glue and the label and impart layflat properties to the label.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Squier, Mallik, and Heise as applied to claims 1, 2, 5, 6, 8, 9, and 11 above, and further in view of Leiner.

In the event the water soluble salt taught by Heise is not necessarily considered a cross-linking agent the following rejection would apply. Heise is not limited to any particular water soluble salt and suggests alkali salts such as sodium. It was known in the art of using an animal glue with an alkali salt to use as the salt an alkali, e.g. sodium, salt of trimethylophenol, a cross-

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linker for the animal glue, to improve the bond strength of the glue as shown by Leiner. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the alkali salt in Squier as modified by Mallik and Heise the specific salt taught by Leiner to improve the bond strength of the glue.

10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Squier, Mallik, Heise, and Leiner as applied to claim 11 above, and further in view of Dronzek.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the water based adhesive taught by Squier as modified by Mallik, Heise, and Leiner a slip aid as shown by Dronzek to prevent excessive friction between the glue and the label.

### **Double Patenting**

11. Claims 1, 2, 5, 6, 8-11, and 13 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 7,090,740 in view of Heise and Mallik or Squire. Claims 1-4 of U.S. Patent No. 7,090,740 fully encompass claims 1, 2, 5, 6, 8-11, and 13 of the instant application except for a teaching of the hydrophilic solid material comprising at least 30% by dry weight of animal glue and cross-linking agent and the water activator including a cross-linking agent it being obvious to use as the hydrophilic solid material and water activator the specific animal glue and water activator shown by Heise (fully described above) to form a water resistant bond between the label and the container. It would have been further obvious to one of ordinary skill in the art at the time the invention was made to use as the polymeric label that known as suitable in the art such as polyethylene or

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polypropylene as shown by Mallik or Squire. Claim 10 is further rejected in view of Dronzek as it would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the animal glue a slip aid as shown by Dronzek to prevent excessive friction between the glue and the label.

### **Response to Arguments**

12. Applicant's arguments with respect to claims 1, 2, 5, 6, 8-11, and 13 have been considered but are moot in view of the new ground(s) of rejection.

The previous rejections over Marotta et al. (U.S. Patent 3,257,225) are withdrawn in favor of those set forth above. Applicants amendment and arguments thereto have overcome the previous 35 U.S.C. 103 rejection over Dronzek in view of Leiner and the previous double patenting rejection over U.S. Patent 6,517,664. The new limitations are fully addressed above.

### **Conclusion**

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is **(571)272-1216**. The examiner can normally be reached on M-F (7:30 AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katarzyna Wyrozebski can be reached on (571) 272-1127. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John L. Goff/  
Primary Examiner, Art Unit 1746